

HOUSE BILL No. 1299

DIGEST OF INTRODUCED BILL

Citations Affected: IC 11-8-8-13; IC 11-13-3-4; IC 35-38-2-2.2; IC 35-42-4-11.

Synopsis: Sex offender residency. Requires a law enforcement agency to personally visit each registered sex or violent offender residing within the agency's jurisdiction at least one time every 30 days. Requires the parole board to prohibit a parolee who is a sex offender from residing within any 31,000 square yard area if at least five other sex offenders already reside within the area. Requires a court as a condition of probation to prohibit a sex offender from residing within any 31,000 square yard area if at least five other sex offenders already reside within the area. Makes it a sex offender residency offense, a Class D felony, for a person to knowingly or intentionally reside within 1,000 feet of a charter school or a child care center, child care home, or child care ministry. Specifies that the distance between the residence of a sex offender and another piece of property is measured from the property line of the sex offender's residence to the property line of the other piece of property.

Effective: July 1, 2008.

Buell

January 15, 2008, read first time and referred to Committee on Courts and Criminal Code.

C
o
p
y



Introduced

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

HOUSE BILL No. 1299

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 11-8-8-13, AS AMENDED BY P.L.216-2007,
2 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2008]: Sec. 13. (a) To verify a sex or violent offender's current
4 residence, the local law enforcement authority having jurisdiction over
5 the area of the sex or violent offender's current principal address or
6 location shall do the following:

7 (1) Mail a form that is approved or prescribed by the department
8 to each sex or violent offender in the county at the sex or violent
9 offender's listed address at least one (1) time per year, beginning
10 seven (7) days after the local law enforcement authority receives
11 a notice under section 11 or 20 of this chapter or the date the sex
12 or violent offender is:

13 (A) released from a penal facility (as defined in
14 IC 35-41-1-21), a secure private facility (as defined in
15 IC 31-9-2-115), or a juvenile detention facility;

16 (B) placed in a community transition program;

17 (C) placed in a community corrections program;

2008

IN 1299—LS 6809/DI 69+



C
o
p
y

- 1 (D) placed on parole; or
 2 (E) placed on probation;
 3 whichever occurs first.
- 4 (2) Mail a form that is approved or prescribed by the department
 5 to each sex or violent offender who is designated a sexually
 6 violent predator under IC 35-38-1-7.5 at least once every ninety
 7 (90) days, beginning seven (7) days after the local law
 8 enforcement authority receives a notice under section 11 or 20 of
 9 this chapter or the date the sex or violent offender is:
- 10 (A) released from a penal facility (as defined in
 11 IC 35-41-1-21), a secure private facility (as defined in
 12 IC 31-9-2-115), or a juvenile detention facility;
 13 (B) placed in a community transition program;
 14 (C) placed in a community corrections program;
 15 (D) placed on parole; or
 16 (E) placed on probation;
 17 whichever occurs first.
- 18 (3) Personally visit each sex or violent offender ~~in the county~~ at
 19 the sex or violent offender's listed address at least one (1) time ~~per~~
 20 **year, every thirty (30) days**, beginning seven (7) days after the
 21 local law enforcement authority receives a notice under section 7
 22 of this chapter or the date the sex or violent offender is:
- 23 (A) released from a penal facility (as defined in
 24 IC 35-41-1-21), a secure private facility (as defined in
 25 IC 31-9-2-115), or a juvenile detention facility;
 26 (B) placed in a community transition program;
 27 (C) placed in a community corrections program;
 28 (D) placed on parole; or
 29 (E) placed on probation;
 30 whichever occurs first.
- 31 (4) ~~Personally visit each sex or violent offender who is designated~~
 32 ~~a sexually violent predator under IC 35-38-1-7.5 at least once~~
 33 ~~every ninety (90) days, beginning seven (7) days after the local~~
 34 ~~law enforcement authority receives a notice under section 7 of~~
 35 ~~this chapter or the date the sex or violent offender is:~~
- 36 (A) released from a penal facility (as defined in
 37 IC 35-41-1-21); a secure private facility (as defined in
 38 IC 31-9-2-115); or a juvenile detention facility;
 39 (B) placed in a community transition program;
 40 (C) placed in a community corrections program;
 41 (D) placed on parole; or
 42 (E) placed on probation;

C
o
p
y



~~whichever occurs first.~~

(b) If a sex or violent offender fails to return a signed form either by mail or in person, not later than fourteen (14) days after mailing, or appears not to reside at the listed address, the local law enforcement authority shall immediately notify the department and the prosecuting attorney.

SECTION 2. IC 11-13-3-4, AS AMENDED BY P.L.216-2007, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) A condition to remaining on parole is that the parolee not commit a crime during the period of parole.

(b) The parole board may also adopt, under IC 4-22-2, additional conditions to remaining on parole and require a parolee to satisfy one (1) or more of these conditions. These conditions must be reasonably related to the parolee's successful reintegration into the community and not unduly restrictive of a fundamental right.

(c) If a person is released on parole, the parolee shall be given a written statement of the conditions of parole. Signed copies of this statement shall be:

- (1) retained by the parolee;
- (2) forwarded to any person charged with the parolee's supervision; and
- (3) placed in the parolee's master file.

(d) The parole board may modify parole conditions if the parolee receives notice of that action and had ten (10) days after receipt of the notice to express the parolee's views on the proposed modification. This subsection does not apply to modification of parole conditions after a revocation proceeding under section 10 of this chapter.

(e) As a condition of parole, the parole board may require the parolee to reside in a particular parole area. In determining a parolee's residence requirement, the parole board shall:

- (1) consider:
 - (A) the residence of the parolee prior to the parolee's incarceration; and
 - (B) the parolee's place of employment; and
- (2) assign the parolee to reside in the county where the parolee resided prior to the parolee's incarceration unless assignment on this basis would be detrimental to the parolee's successful reintegration into the community.

(f) As a condition of parole, the parole board may require the parolee to:

- (1) periodically undergo a laboratory chemical test (as defined in IC 14-15-8-1) or series of tests to detect and confirm the presence

C
o
p
y



of a controlled substance (as defined in IC 35-48-1-9); and
 (2) have the results of any test under this subsection reported to
 the parole board by the laboratory.

The parolee is responsible for any charges resulting from a test
 required under this subsection. However, a person's parole may not be
 revoked on the basis of the person's inability to pay for a test under this
 subsection.

(g) As a condition of parole, the parole board:

(1) may require a parolee who is a sex offender (as defined in
 IC 11-8-8-4.5) to:

(A) participate in a treatment program for sex offenders
 approved by the parole board; and

(B) avoid contact with any person who is less than sixteen (16)
 years of age unless the parolee:

(i) receives the parole board's approval; or

(ii) successfully completes the treatment program referred to
 in clause (A); and

(2) shall:

(A) require a parolee who is a sex or violent offender (as
 defined in IC 11-8-8-5) to register with a local law
 enforcement authority under IC 11-8-8;

(B) prohibit a parolee who is a sex offender from residing
 within one thousand (1,000) feet of school property (as defined
 in IC 35-41-1-24.7), **as measured from the property line of
 the sex offender's residence to the property line of the
 school property**, for the period of parole, unless the sex
 offender obtains written approval from the parole board;

(C) prohibit a parolee who is a sex offender convicted of a sex
 offense (as defined in IC 35-38-2-2.5) from residing within
 one (1) mile of the victim of the sex offender's sex offense, **as
 measured from the property line of the sex offender's
 residence to the property line of the victim's property**,
 unless the sex offender obtains a waiver under IC 35-38-2-2.5;
~~and~~

(D) prohibit a parolee who is a sex offender from owning,
 operating, managing, being employed by, or volunteering at
 any attraction designed to be primarily enjoyed by children
 less than sixteen (16) years of age; **and**

**(E) prohibit a parolee who is a sex offender from residing
 within any thirty-one thousand (31,000) square yard area
 if at least five (5) other sex offenders already reside within
 the area.**

C
o
p
y



The parole board may not grant a sexually violent predator (as defined in IC 35-38-1-7.5) or a sex offender who is an offender against children under IC 35-42-4-11 a waiver under subdivision (2)(B) or (2)(C). If the parole board allows the sex offender to reside within one thousand (1,000) feet of school property under subdivision (2)(B), the parole board shall notify each school within one thousand (1,000) feet of the sex offender's residence of the order.

(h) The address of the victim of a parolee who is a sex offender convicted of a sex offense (as defined in IC 35-38-2-2.5) is confidential, even if the sex offender obtains a waiver under IC 35-38-2-2.5.

(i) As a condition of parole, the parole board may require a parolee to participate in a reentry court program.

(j) As a condition of parole, the parole board:

(1) shall require a parolee who is a sexually violent predator under IC 35-38-1-7.5; and

(2) may require a parolee who is a sex or violent offender (as defined in IC 11-8-8-5);

to wear a monitoring device (as described in IC 35-38-2.5-3) that can transmit information twenty-four (24) hours each day regarding a person's precise location.

(k) As a condition of parole, the parole board may prohibit, in accordance with IC 35-38-2-2.6, a parolee who has been convicted of stalking from residing within one thousand (1,000) feet of the residence of the victim of the stalking for a period that does not exceed five (5) years.

SECTION 3. IC 35-38-2-2.2, AS AMENDED BY P.L.216-2007, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2.2. As a condition of probation for a sex offender (as defined in IC 11-8-8-4.5), the court shall:

(1) require the sex offender to register with the local law enforcement authority under IC 11-8-8; ~~and~~

(2) prohibit the sex offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-41-1-24.7), **as measured from the property line of the sex offender's residence to the property line of the school property**, for the period of probation, unless the sex offender obtains written approval from the court; **and**

(3) prohibit a parolee who is a sex offender from residing within any thirty-one thousand (31,000) square yard area if at least five (5) other sex offenders already reside within the area.

C
o
p
y



If the court allows the sex offender to reside within one thousand (1,000) feet of school property under subdivision (2), the court shall notify each school within one thousand (1,000) feet of the sex offender's residence of the order. However, a court may not allow a sex offender who is a sexually violent predator (as defined in IC 35-38-1-7.5) or an offender against children under IC 35-42-4-11 to reside within one thousand (1,000) feet of school property.

SECTION 4. IC 35-42-4-11, AS AMENDED BY P.L.216-2007, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. (a) As used in this section, and except as provided in subsection (d), "offender against children" means a person required to register as a sex or violent offender under IC 11-8-8 who has been:

- (1) found to be a sexually violent predator under IC 35-38-1-7.5; or
- (2) convicted of one (1) or more of the following offenses:
 - (A) Child molesting (IC 35-42-4-3).
 - (B) Child exploitation (IC 35-42-4-4(b)).
 - (C) Child solicitation (IC 35-42-4-6).
 - (D) Child seduction (IC 35-42-4-7).
 - (E) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age and the person is not the child's parent or guardian.
 - (F) Attempt to commit or conspiracy to commit an offense listed in clauses (A) through (E).
 - (G) An offense in another jurisdiction that is substantially similar to an offense described in clauses (A) through (F).

A person is an offender against children by operation of law if the person meets the conditions described in subdivision (1) or (2) at any time.

(b) As used in this section, "reside" means to spend more than three (3) nights in:

- (1) a residence; or
- (2) if the person does not reside in a residence, a particular location;

in any thirty (30) day period.

(c) An offender against children who knowingly or intentionally:

- (1) resides within one thousand (1,000) feet of:
 - (A) school property, not including property of an institution providing post-secondary education;
 - (B) a charter school (as defined in IC 20-24-1-4);**
 - ~~(B)~~ (C) a youth program center; or

C
o
p
y



(D) a child care center licensed under IC 12-17.2-4, child care home licensed under IC 12-17.2-5, or child care ministry registered under IC 12-17.2-6; or

~~(C)~~ (E) a public park;

as measured from the property line of the offender's residence to the property line of the school, charter school, youth program center, child care center, child care home, child care ministry, or public park; or

(2) establishes a residence within one (1) mile of the residence of the victim of the offender's sex offense, as measured from the property line of the offender's residence to the property line of the victim's residence;

commits a sex offender residency offense, a Class D felony.

(d) This subsection does not apply to an offender against children who has two (2) or more unrelated convictions for an offense described in subsection (a). A person who is an offender against children may petition the court to consider whether the person should no longer be considered an offender against children. The person may file a petition under this subsection not earlier than ten (10) years after the person is released from incarceration, probation, or parole, whichever occurs last. A person may file a petition under this subsection not more than one (1) time per year. A court may dismiss a petition filed under this subsection or conduct a hearing to determine if the person should no longer be considered an offender against children. If the court conducts a hearing, the court shall appoint two (2) psychologists or psychiatrists who have expertise in criminal behavioral disorders to evaluate the person and testify at the hearing. After conducting the hearing and considering the testimony of the two (2) psychologists or psychiatrists, the court shall determine whether the person should no longer be considered an offender against children. If a court finds that the person should no longer be considered an offender against children, the court shall send notice to the department of correction that the person is no longer considered an offender against children.

**C
o
p
y**

